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July 12 GOVERNMENT MATTERS—APPROP. PL. 86-642

TITLE II-GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

Sec. 201. Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1916 (5 U.S.C. 78), for the purchase of any passenger motor vehicle (exclusive of buses and ambulances), is hereby fixed at \$1,500 except station wagons for which the maximum shall be \$1,050.

Sec. 202. Unless otherwise specified and during the current fiscal year, no

Sec. 202. Unless otherwise specified and during the current iscal year, no part of any appropriation contained in this or any other Act shall be used to fay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act who, being eligible for citizenship, had filed a declaration of intention to become a citizen of the United States prior to such date, (3) is a person who owes aliegiance to the United States, or (4) is an allen from the Baltic countries lawfully admitted to the United States for permanent residence: Provided, That for the purpose of this section, an affidavit signed by any such person shall be considered prima facic evidence that the requirements of this section with respect to his status have been compiled with: Provided further, That any person making a false affidavit shall be guilty of a felony and, upon conviction, shall be fined not more than \$3,000 or imprisoned for not more than one year, or both: Provided further, That the above penal clause shall be in addition to, and not in substitution for, any other provisions of existing law: Provided further, That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall be recoverable in action by the Federal Government. This section shall be recoverable in action by the Federal Government. This section shall be recoverable in action by the Federal Government. This section shall be recoverable in action by the Federal Government. This section shall be recoverable in action by the Federal Government. This section shall be federal contraction of the Republic of the Philipples or to nationals of those countries allied with th

Sec. 203. Appropriations of the executive departments and independent establishments for the current fiscal year, available for expenses of travel or for the expenses of the activity concerned, are hereby made available for living quarters allowances in accordance with the Act of June 26, 1930 (5 U.S.C. 118a), and regulations prescribed thereunder, and cost-of-living allowances similar to those allowed under section 901(2) of the Foreign Service Act of 1946, in accordance with and to the extent prescribed by regulations of the President, for all civilian officers and employees of the Government permanently stationed in foreign countries: *Provided*, That the availability of appropriations made to the Department of State for carrying out the provisions of the Foreign Service Act of 1946 shall not be affected hereby.

Sec. 204. No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.

Sec. 205. No part of any appropriation contained in this or any other Act for the current fiscal year shall be used to pay in excess of \$4 per volume for the current and future volumes of the United States Code Annotated, and such volumes shall be purchased on condition and with the understanding that latest published cumulative annual pocket parts issued prior to the date of purchase shall be furnished free of charge, or in excess of \$4.25 per volume for the current or future volumes of the Lifetime Federal Digest.

Sec. 206. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to the Government Corporation Control Act, as amended (31 U.S.C. 841), shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with section 15

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Comp. Gen.] DECISIONS OF THE COMPTROLLER GENERAL

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[B-113228]

Vehicles—Purchases—Cost and Other Limitations

While 5 U. S. Code 78 (a) prohibits the purchase of passenger automobiles in the absence of specific statutory authority it specifically exempts from such prohibition the purchase of passenger automobiles for the use of heads of executive departments, so that a passenger automobile may be purchased for the use of the Attorney General without specific nuthorization or appropriation however, the maximum price limitation of \$1400 established by section 1401 of the act of July 15, 1952, is applicable to such purchase.

Acting Comptroller General Yates to the Attorney General, January 30, 1953:

Reference is made to letter dated December 16, 1952, file A3-5, from the Administrative Assistant Attorney General, requesting a decision whether (1) in the absence of a specific legislative authorization or appropriation item therefor, a new passenger automobile may be purchased, on a replacement basis, for the use of the Attorney General and (2) if so, whether such purchase would be subject to the maximum purchase price limitation of \$1,400 established by section 1401 of the act of July 15, 1952, 66 Stat. 659.

It long has been the policy of the Congress to restrict and retain legislative control over the purchase of passenger automobiles by the various departments and agencies of the Government. These restrictions and controls were consolidated and clarified by section 16 of the Administrative Expense Act of August 2, 1946, 60 Stat. 810, which amended section 5 of the act of July 16, 1914, 5 U. S. C. 78, so as to provide, in pertinent part, as follows:

Unless specifically authorized by the appropriation concerned or other law, no appropriation shall be expended to purchase or hire passenger motor vehicles for any branch of the Government other than those for the use of the President of the United States, the secretaries to the President, or the heads of the executive departments enumerated in 5 U. S. C. 1. (5 U. S. C. 78 (a))

Unless otherwise specifically provided, no appropriation available for any department shall be expended—

(1) to purchase any passenger motor vehicle (exclusive of busses, ambulances, and station wagons), at a cost, completely equipped for operation, and including the value of any vehicle exchanged, in excess of the maximum price therefor, if any, established pursuant to law by a Government agency and in no event more than such any int as may be specified in an appropriation or other Act, which shall be in addition to the amount required for transportation; (5 U. S. C. 78 (c))

Section 78. a) of title 5 of the United States Code, supra, clearly prohibits the use of appropriated moneys for the purchase of passenger automobiles in the absence of a specific authorization therefor, except where the auto is for the use of the President of the United States, the secretaries to the President or the heads of the executive departments enumerated in 5 U. S. C. 1. Since the Department of Justice is one of the executive departments enumerated in 5 U. S. C. 1, and the Attorney General is its head, it appears clear that appropri-

ated moneys, otherwise available, may be used for the purchase of an automobile for the use of the Attorney General without a specific authorization therefor in the appropriation or other law. Question 1 is accordingly answered in the affirmative.

The prohibition, of expenditure of moneys available to any department for the purchase of a passenger automobile in excess of amounts specified in the appropriation or other act-established by section 78 (c) of title 5, United States Code-prescribes, unless otherwise specifically provided, a maximum price "in no event more than such amount as may be specified in an appropriation or other Act" and in effect provides a ceiling wherever one is not otherwise provided. There is nothing in such section which would permit purchase of such automobiles from departmental appropriations without regard to the maximum price, whether the vehicle is purchased under a specific appropriation authorization therefor which provides no ceiling (for instance, the several items for purchase of automobiles contained in the Department of Justice Appropriation Act, 1953, 66 Stat. 556-560) or under the exception provided in 5 U.S. C. 78 (a), supra. This interpretation appears to have been generally accepted by the various departments and specific authority for the purchase of more expensive automobiles where desired for use by the head of the department have been included in numerous annual appropriations. In this connection, see the General Appropriation Act, 1951, 64 Stat. 595-769 wherein the Department of Justice was authorized to purchase "one passenger motor vehicle at not to exceed \$4,000 for replacement only" (64 Stat. 616); the Department of the Interior was authorized to purchase "one passenger motor vehicle for replacement only at not to exceed \$4,500" (64 Stat. 680); and the Department of Defense was authorized to purchase passenger vehicles "including one at not to exceed \$3,000" (64 Stat. 731). See also the Labor-Federal Security Appropriation Act, 1953, wherein the Department of Labor was authorized to purchase "not to exceed one passenger motor vehicle (at not to exceed \$3,000) for replacement only" (66 Stat. 358); and the Department of Agriculture Appropriation Act, 1953, authorizing the Department of Agriculture to purchase "one passenger motor vehicle for replacement of the motor vehicle used by the Secretary with a comparable new model" (66 Stat. 351).

Accordingly, it must be held that, while a passenger automobile for the use of the Attorney General may be purchased under the exception provided by 5 U. S. C. 78 (a) without a specific legislative authorization or appropriation item therefor, the maximum price of \$1,400 established by section 1401 of the act of July 15, 1952, 66 Stat. 659, pursuant to 5 U. S. C. 78 (c) would be applicable to such purchase in the absence of a specific authorization or appropriation item therefor.

R	OUTIN	G AND	RECOR	D SHEET
SUBJEC* (Optional)				
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TO: (Officer designation, room number, and building)	D	ATE FORWARDED	OFFICER'S INITIALS	COMMENTS (Number each comment to show from what to whom. Draw a line across column after each comment
1.Director of Finance 1212 Key Bldg.		11/9/65		1. For Signature STA
2. 3. Deputy Director for		, ,		1 to 3 & 5:
altertin Mr worfield				In accordance with our conversation several days ago there is forwarded herewith a formal memorandum for General
5 General Counsel Mr. Lawrence Houston 7-D-01 Hqs.			,	Counsel through DD/S requesting a formal opinion as to the authority for the legality of a
7.				specific purchase and the treat- ment of like transactions in the future. I have not distributed this to any other office since yo
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